

## **REMARKS**

### **STATUS OF THE CLAIMS.**

Claims 2-6, 9-15, 18-20, 23, 25, 26, and 43-44 are pending with entry of this amendment, claims 16 and 45 being canceled. Claims 9, 13, and 23 are amended herein. In particular, claims 9 and 13 have been amended to substituted the term "collagen" for the term "Vitrogen®." Support for this amendment is found in the specification at least at page 8, line 26. Elements previously recited in claims 16 and 45 have been incorporated into claim 23, and redundant language has been deleted from claim 13. Thus, these amendments introduce no new matter.

### **AMENDMENTS TO THE DRAWINGS.**

The Examiner has indicated that Figure 12, filed on June 4, 2004, was not present in the original specification and therefore constitutes new matter. Office Action, page 2. In the interest of expediting prosecution, Applicants respectfully request the Examiner to cancel Figure 12 from the drawings and renumber Figures 13-25 as Figures 12-24. This Amendment is accompanied by a set of Formal Drawings in color for Figs. 1-24 (in triplicate) and a set in black-and-white. These differ from the previously filed Formal Drawings only in that former Fig. 12 has been removed and former Figs. 13-25 have been renumbered. In addition, the specification has been amended to delete the brief description of Figure 12 and to revise the figure numbering to conform to that of the new Formal Drawings. Withdrawal of the new matter rejection is therefore respectfully requested.

### **35 U.S.C. §112, SECOND PARAGRAPH.**

Claims 9, 13, and 14 were rejected under 35 U.S.C. §112, first paragraph, for alleged indefiniteness. Office Action, page 7. The rejection is respectfully traversed. The basis for the rejection was that claims 9, 13, and 14 were said to contain the trademark/tradename "Vitrogen®." Claims 9 and 13 have been amended herein to substitute the word "collagen" for "Vitrogen®," and this term was deleted from claim 14 in the previous Amendment. Therefore, Applicants submit that claims 9, 13, and 14 are free of the rejection. Withdrawal of the § 112, second paragraph rejection is therefore respectfully requested.

**35 U.S.C. §103.**

**Black and Montesano**

Claims 2-6, 11, 12, 15, 18-20, 23, 25, 26, 43, and 45 were rejected under § 103(a) as unpatentable over Black *et al.* (1998, FASEB J. 12, 1331-1340), in view of Montesano (1983, J. Cell Biol., 97, 1648-52). Office Action, page 3. The rejection is moot as to claim 45, which has been canceled. As to the remaining rejected claims, the rejection is respectfully traversed.

Of the rejected claims, only claim 23 is independent. Claim 23 has been amended to incorporate the elements previously recited in claims 16 and 45, both of which have been canceled. Claim 16 was objected to as being dependent upon a rejected base claim, but the Examiner indicated that claim 16 “would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.” Office Action, page 8. Claim 16 depended from claim 45, which depended from claim 23. Thus, amended claim 23 is claim 16 “rewritten in independent form including all of the limitations of the base claim and any intervening claims.” Accordingly, claim 23 is now free of the rejection over Black and Montesano. The other rejected claims are patentable over the cited combination at least by virtue of their dependence from claim 23. Withdrawal of the § 103 rejection over Black, in view of Montesano, is therefore respectfully requested.

**Black, Montesano, and Li**

Claim 9 stands rejected under § 103(a) as unpatentable over Black, in view of Montesano and Li *et al.* (2000, PNAS 275, 35384-35392). Office Action, page 4. The rejection is respectfully traversed.

Claim 9 recites: “The artificial tissue of claims 2 or 23 wherein the support matrix comprises collagen.” Claim 2 depends from claim 23, and thus claim 9 incorporates all of the elements of claim 23. Claim 23 corresponds to claim 16, rewritten in independent form. Claim 16 was free of the rejection over Black, Montesano, and Li, and thus amended claim 23 is free of this rejection. Therefore, claim 9 is patentable over this combination of references at least by virtue of its dependence from amended claim 23. Withdrawal of the § 103 rejection over Black, Montesano, and Li is therefore respectfully requested.

**Black, Montesano, and Lokeshwar**

Claims 2, 10, 23, and 44 were rejected under § 103(a) over Black, in view of Montesano and Lokeshwar *et al.* (2000 J. Biol. Chem. 275:27641-49). Office Action, page 5. The rejection is respectfully traversed.

Of the rejected claims, only claim 23 is independent. Specifically, claim 2 depends from claim 23, and claim 44 depends from claims 2 or 23; claim 10 depends from claim 44. Claim 23 corresponds to claim 16, rewritten in independent form. Claim 16 was free of the rejection over Black, Montesano, and Lokeshwar, and thus amended claim 23 is free of this rejection. Therefore, claims 2, 10, and 44 are patentable over this combination of references at least by virtue of their dependence from amended claim 23. Withdrawal of the § 103 rejection over Black, Montesano, and Lokeshwar is therefore respectfully requested.

**New Ground of Rejection - Black, Montesano, and Li**

Claims 13 and 14 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Black, in view of Montesano and Li. Office Action, page 5. The rejection is respectfully traversed.

Claims 13 and 14 depend from claim 23. As pointed out above, claim 23 is free of the rejection over Black, Montesano, and Li. Therefore, claims 13 and 14 are patentable over this combination of references at least by virtue of their dependence from amended claim 23. Withdrawal of this § 103 rejection over Black, Montesano, and Li is therefore respectfully requested.

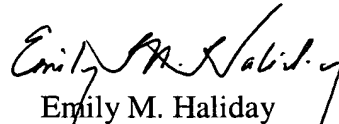
**CONCLUSION.**

In view of the foregoing, Applicants believe that all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Should the Examiner seek to maintain the rejections, Applicants request a telephone interview with the Examiner and the Examiner's supervisor.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 769-3509.

QUINE INTELLECTUAL PROPERTY LAW  
GROUP, P.C.  
P.O. BOX 458  
Alameda, CA 94501  
Tel: 510 337-7871  
Fax: 510 337-7877

Respectfully submitted,

  
Emily M. Haliday  
Reg. No: 38,903